otherwise to explain why they were not called. Finally there is a conflict of evidence between the complainant herself and the third witness with regard to the lamp. Complainant's story was that she was able to recognise the accused because the lamp in her room was still burning, whereas the third witness states that when he went to the complainant's room only a few minutes later there was no lamp on in the room.

Taking all these matters into consideration and the fact that the Magistrate himself appears to have had some doubt in the matter I came to the conclusion that this was a case in which it was unsafe to convict and I decided to act in revision and to reverse the learned Magistrate's Order. The accused was accordingly acquitted.

Accused acquitted

HAJI MOHAMED BIN HAJI BAHAUDIN v. RADIAH BINTI ZAINUDIN.

[Orig. Civ. Juris. (Thomson, J.), January 25, 1950]

[Ipoh — Bankruptcy No. 25 of 1949]

Bankruptcy Notice — Bankruptcy Enactment, s. 4(i)(i) — Whether Bankruptcy Notice can be founded on Kathi's order for maintenance — Courts Enactment (Cap. 2), s. 66.

A Bankruptcy Notice under s. 4 (i) (i) of the Bankruptcy Enactment (Cap. 55) cannot be founded on an unsatisfied order for maintenance made by a Court of a Kathi.

Case referred to :—

(1) *In re a Bankruptcy Notice* (1907) 1 K.B. 482.

APPLICATION IN BANKRUPTCY.

Parties in person.

Thomson, J. : — This is an application to set aside a Bankruptcy Notice which was issued on two unsatisfied orders for maintenance made by the Chief Kathi for Perak. The only question that arises is whether a bankruptcy notice can be founded on such an order.

That question is to be decided on a construction of section 4 (i) (i) of the Bankruptcy Enactment and section 66 of Chapter 2 of the Laws of the Federated Malay States which is the only existing provision for the enforcement of orders made by Kathis' Courts and which reads as follows :—

"66. — In the event of any lawful order made by a Court of a Kathi . . . not being obeyed, such Court may report the matter, with a copy of all proceedings therein, to a Court of a Magistrate of the First Class within the same district and thereupon it shall be the duty of such last-mentioned Court either to enforce such order as though it were an order made by itself or to send it to another Court for execution."

In my opinion the point can be most satisfactorily disposed of by reference to certain observations by Fletcher Moulton, L.J., in the case of *In re a Bankruptcy Notice*[1]. The question in issue in that case was whether a Bankruptcy Notice could be founded on an arbitration award. His Lordship was of the opinion that it could not and in the course of his judgment to that effect he said :—

"The powers of the Court as to giving effect to such an award in such an arbitration are defined by s. 12 of the Arbitration Act, 1889. That section provides that "an award on a submission may by leave of the Court or a judge be enforced in the same manner as a judgment or order to the same effect." But it gives no power to turn such an award into a judgment. It gives to the award the same status as a judgment for the purpose of enforcement, but it leaves it what it was before, viz., an award. . . . . The only other question is as to whether the procedure under s. 4, sub-s. 1 (g), of the Bankruptcy Act, 1883, is an enforcement within the meaning of s. 12 of the Arbitration Act, 1889. In my judgment an application for a bankruptcy notice is not a method of enforcing a judgment. It is the commencement of proceedings of far wider effect, and is not intended to be included in the words of s. 12 of the Arbitration Act."

So far as the question before me here is concerned, I can see no material difference either between section 12 of the Arbitration Act and section 66 of Chapter 2, or between section 4 (i) (g) of the Bankruptcy Act, 1883, and section 4 (i) (i) of the local Bankruptcy Enactment. By parity of reasoning with the passage which has been quoted, I am compelled to the conclusion that section 66 gives the Kathi's Court order the status of a Magistrate's Court for the purpose of enforcement but it leaves it what it was before, that is a Kathi's Court order, and that procedure under section 4 (i) (i) of the Bankruptcy Enactment is not an enforcement under section 66.

The application is accordingly allowed and the bankruptcy notice to which it relates set aside.

Notice set aside.

IN RE LAI TENG FONG DECEASED; YAP KWEE YING v. LAI KIM FOH.

[Orig. Civ. Juris. (Laville, J.) December 3, 1949]

[J.B. — Probate Suite No. 1 of 1948]

Marriage — Chinese marriage — Evidence of cohabitation and common repute.

On the 15th October, 1947, Yap Kwee Ying the petitioner herein filed a petition to administer the estate of Lai Teng Fong deceased, who was killed by the Japanese on 24th February, 1942. On the same date, one Lai Kim Foh entered a caveat to the petition and claimed to have

a caveatable interest in the estate as the son of Lai Teng Fong deceased. The petitioner in her statement of claim claimed to be one of the lawful widows of the deceased and gave a list of his next of kin. The name of the caveator, Lai Kim Foh, was not included in the list and it was claimed he was a nephew. In his statement of defence Lai Kim Foh alleged that the petitioner had no interest in the estate on the ground that she was a concubine and never a wife of Lai Teng Fong.

The issues before the Court were:—

(1) Was Yap Kwee Ying a wife, or merely a concubine of Lai Teng Fong?

(2) Was Lai Kim Foh a legitimate son of Lai Teng Fong by his first wife Chong Moi, or was he a nephew and actually the son of Lai Teng Fong's brother Lai Kai Yung?

Held, (1) that on the facts, that as the deceased Lai Teng Fong cohabited with the petitioner from 1936 until his death with intention of forming a permanent union and as the common repute was that she was his wife and not his mistress, Yap Kwee Ying was the wife of Lai Teng Fong; (2) that Lai Kim Foh was not a natural born legitimate son of Lai Teng Fong.

Cases referred to :—

(1) *The Six Widows' case* 12 S.S.L.R. 120.

(2) *Chua Ip Neo v. Tan Keh Neo* (1949) M.L.J. 241.

(3) *Cheang Thye Phin v. Tan Ah Loy* L.R. (1920) A.C. 369.

PROBATE SUIT.

K. E. W. Hatchard for the Petitioner.

D. G. Osborne-Jones for the Caveator.

The facts and arguments appear sufficiently from the Judgment.

Cur. Adv. Vult.

Laville, J. : — On 15th October, 1947, Yap Kwee Ying filed a petition to administer the estate of Lai Teng Fong deceased, who was killed by the Japanese on 24-2-42 at Ulu Tiram village, Johore.

The petitioner claimed to be granted administration as the 4th wife (widow) of the deceased man.

On the same date, 15th October, 1947, one Lai Kim Foh entered a caveat to the petition, and on 3rd November appeared to the warning and claimed to have a caveatable interest in the estate as the son of Lai Teng Fong deceased and opposed a grant to Yap Kwee Ying on the ground that she was not a wife of the deceased nor his widow but the widow of one Tan Ah Fook.

On 22nd November, 1947, in open Court petitioner stated that Lai Kim Foh had no caveatable interest as he was not the son but the nephew of deceased Lai Teng Fong, and an order was by consent made for pleadings with Yap Kwee Ying as plaintiff and Lai Kim Foh as defendant.

On 30-3-48 petitioner filed a copy of her petition as a statement of claim. In it she claimed to be one of the lawful widows of Lai Teng Fong deceased and gave a list of his next-of-skin, six in number, including Wong Pik Ying the other surviving widow, petitioner herself, a daughter Lai Ngee Moey by a wife who predeceased Lai Teng Fong, and three minor children of the petitioner by Lai Teng Fong.

The name of the caveator, Lai Kim Foh, was not included in the list, and it was claimed he was a nephew of Lai Teng Fong, a son of his elder brother, Lai Kai Yung, who lived in China and had never been to Malaya.

In his statement of defence Lai Kim Foh admits that Wong Pik Ying was a widow and Lai Ngee Moey a daughter and admits that the three minor children mentioned in the petition are the children of the deceased by petitioner, but denies that petitioner or they have any interest in the estate on the ground that she was a concubine and never a wife of Lai Teng Fong. He claims in his evidence that he is the son of Lai Teng Fong by his first wife Chong Moi and that he was born in China in 1916.

The issues therefore are two :—

(1) Was Yap Kwee Ying a wife, or merely a concubine of Lai Teng Fong?

(2) Was Lai Kim Foh a legitimate son of Lai Teng Fong by his first wife Chong Moi, or was he a nephew and actually the son of Lai Teng Fong's brother Lai Kai Yung?

As to the status of widowhood as understood and accepted among the Chinese community of Malaya, it may be taken as settled law since *The Six widows' case*[1] and a long series of similar decisions ending in the decision of Callow, J. in *Chua Ip Neo v. Tan Keh Neo*[2] that wifehood may be proved by evidence of a marriage ceremony, or long continued cohabitation with intention to form a permanent union and repute of marriage.

The plaintiff, Yap Kwee Ying, supports her claim to wifehood by evidence of a certain amount of ceremony. She states she was married to Lai Teng Fong in a house at Bukit Pasoh, Singapore, in 1936, and a few days later served tea to a few friends and relatives of her husband at the Air View Hotel, Singapore, including his son, Lai Kar Heng, and his 3rd wife Wong Pik Ying. A visitor, Wong Liuk, gave her the usual ceremonial red packet. Prior to the day of the marriage her father gave a dinner in his house, and there was a go-between to arrange the marriage and a horoscope. Yap Kwee Ying also produces a photograph of herself and Lai Teng Fong taken in formal pose the day after their wedding.

The evidence as to a wedding ceremony is scanty and vague, but it is not and cannot be contradicted by the defendant and his witnesses who deny that they were at the place it was alleged to have been held at the time alleged.

The evidence as to a complete ceremony of marriage is scanty; accepting the plaintiff's evidence and that of Wong Liuk, there appears to have been a pre-marriage feast by the girl's parents, a bringing of the bride to the Bukit Pasoh house of Lai Teng Fong and his admitting her there; the photograph, and a tea party with red packets at the Air View Hotel at which the 3rd wife of Lai Teng Fong and his son Lai Kar Heng were present, and the serving of tea by the bride to the guests. By itself this evidence would not be conclusive, but the presence of Lai Teng Fong's son and his 3rd wife, if true, is suggestive that his connection with plaintiff then had implications going beyond the mere concubinage. It is held in *Cheang Thye Phin v. Tan Ah Loy*[3] that proof of the performance of a ceremony to establish marriage is not necessary, and the plaintiff's evidence must be examined for proof of long cohabitation and intention to form a permanent union.

The evidence on this point is again that of the plaintiff who says that she and Lai Teng Fong commenced cohabitation in 1936 at the Bukit Pasoh house; she continued to live there and cohabit with him for one year or so when he paid her visits. Then she left and went to live at Ulu Tiram in the family house with Lai Teng Fong's mother, his third wife, and his daughter Lai Ngee Moey; while she was there the defendant joined the household. She avers she lived there from 1937 to the Japanese occupation in 1942, visiting the Bukit Pasoh house occasionally and bearing Lai Teng Fong four children all born in Government Hospital, Singapore, to which she had gone from Ulu Tiram for the occasion. She was also there when the family moved out to the jungle when the Japanese arrived and saw Lai Teng Fong killed by them and went to his funeral.

Wong Liuk before the Japanese occupation lived at 13th mile Bukit Tiram in same village as Lai Teng Hong and had known him 10 years before he died. He knew the plaintiff before her association with Lai Teng Fong. He went to what plaintiff states was her marriage ceremony to Lai Teng Fong. He supports plaintiff's story that soon after this ceremony she came to Ulu Tiram village and lived in Lai Teng Fong's family house for some years before the Japanese occupation, with his 3rd wife and was accepted as a wife by the family. He says he used to visit the house and see her there.

Yee Yin, an employee of Lai Teng Fong, states he was working for him prior to the Japanese occupation; he used to see the plaintiff there and saw her at the funeral of Lai Teng Fong and also saw her during his life in the family house. He knew her as the wife of Lai Teng Fong and she was treated as such in the house.

The defendant admits that the plaintiff had been associated with his father for 10 or 11 years before his death, and had borne him four children, but claims that she was a concubine and that the Bukit Pasoh house in Singapore was retained by Lai Teng Fong for her all that time and that, though she occasionally visited Lai Teng Fong at Ulu Tiram, she never lived there with him or was accepted as his wife. He agrees she did join the household when the Japanese attack was imminent and was there when the family vacated the house for the jungle and went with them into the jungle and that she attended the funeral of Lai Teng Fong. He also admits that Lai Teng Fong's 3rd wife consulted him and the plaintiff in regard to the buried jewellery before he and the plaintiff went to look for it after Lai Teng Fong's death, and that the plaintiff was present with him when Lai Teng Fong buried the jewellery. It may be said at once that this witness was far from impressive. He took a long time to answer simple straightforward questions and contradicated himself several times, and his stock answer as to why other witnesses had said that the plaintiff was the wife of Lai Teng Fong was always that they did not know the details of the family business.

Lai Ngee Moey, a daughter of Lai Teng Fong, gave evidence that she knew of no marriage between plaintiff and Lai Teng Fong and that the latter spoke of the plaintiff as his pleasure woman. She denies that the plaintiff ever lived in the family house at Ulu Tiram, but agrees she used to visit it now and then for short periods and stayed for a month before the Japanese arrived. Her evidence too amounted merely to a denial of any marriage between the plaintiff and Lai Teng Fong.

The defendant called no other evidence as to the status of the plaintiff and her relations with Lai Teng Fong.

It is clear and admitted by the defendant and Lai Ngee Moey, that plaintiff and Lai Teng Fong cohabited for a period of at least 7 years before his death and that she bore him four children whom he acknowledged; it was also admitted that she visited the

family house at Ulu Tiram often and cohabited with Lai Teng Fong there.

I accept the plaintiff's evidence that she actually lived there since 1937; this is supported by the evidence of independent witnesses. It is also of the greatest significance that even the defendant and Lai Ngee Moey admit that when the Japanese advance became a menace plaintiff was received into the family house at Ulu Tiram and was evacuated from there with the rest of the family into the jungle. At such a time it is inconceivable that a man would burden himself with a concubine or that a concubine would not have remained safely in Singapore if she lived there as the defendant alleges. It is also significant that on the defendant's own showing Lai Teng Fong confided to her as well as to him the hiding place of the jewellery and money and that defendant himself took her with him to visit these places after Lai Teng Fong's death, when presumably he and Lai Ngee Moey could have got rid of a mere mistress of the dead Lai Teng Fong.

I am satisfied that, though the photograph exhibited may not have been one taken at a marriage ceremony and that the tea service may not have been on the occasion of a marriage, yet Lai Teng Fong from 1936 to his death cohabited with the plaintiff with the intention of forming a permanent union as is evidenced by the fact that he vacated her with the rest of his family into the jungle and that the common repute was that she was his wife and not his mistress and she was accepted as such by his family including Lai Ngee Moey and the defendant. This is specially evidenced by the fact that when plaintiff and defendant discussed the question of Letters of Administration with Datoh Wong Shu Fung the defendant raised no voice in objection when she claimed to be the wife of the deceased Lai Teng Fong, nor Lai Ngee Moey.

On the first issue therefore I hold that Yap Kwee Ying was the wife of Lai Teng Fong and that she is entitled to a share in his estate as a lawful widow.

The second issue raised by these proceedings is the claim by the caveator that he is a natural-born legitimate son of Lai Teng Fong, and as such a beneficiary entitled to a share in his estate, and that his name should be entered in the petition for Letters of Administration filed by Yap Kwee Ying as such. His claim is opposed by Yap Kwee Ying who alleges that he is not a son but a nephew of deceased Lai Teng Fong and as such under the Distributions Enactment not entitled to a share in the estate of the deceased.

The onus is on Lai Kim Foh the caveator to establish the relationship to the deceased which he claims. His evidence is that he was born to Chong Moi, the first and chief wife of Lai Teng Fong, in China on 29th day VI Chinese Moon Piang Chin year (1916) in a village in the Hock San District of Kwang Ting province. He says he got this information from his father's elder brother and the latter's wife, and added, when questioned by the Court as to his mother, that she also told him.

Lai Ngee Moey, an admitted child of Lai Teng Fong by his second wife, accepts Lai Kim Foh as a son of Lai Teng Fong. She admittedly lived the whole time in the family house at Ulu Tiram with her father. She was born in 1927 and says that when she was aged 9 (8 by English reckoning) Lai Kim Foh came to join the household in Ulu Tiram and was 18–19 years old. This makes the year of his arrival 1935 and his birth year 1916. Her evidence is that Lai Teng Fong, before Lai Kim Foh came to Ulu Tiram, used to speak in the family house of sending money to China for the education and expenses of his son by his first wife in China, and accepted Lai Kim Foh when he came as that son. She says she heard Lai Teng Fong speak of his son in China when she was 3 or 4 years old and remembers it from that tender age, and adds that her father almost every year mentioned that he was sending money both for maintenance of his wife in China and also for his son's education, and that this went on till Lai Kim Foh came to Malaya (1936). The value of this evidence is greatly minimised by her evidence that the wife in China died when she, Lai Ngee Moey, was 4 or 5 years old, and by the defendant's evidence that his mother died in China in 1927, the year in which witness Lai Ngee Moey was born. Her evidence on the point of remittances to China to the first wife and to the son in China cannot be accepted.

Loo Seng, a labourer, asserts that defendant is the son of one Lai Foong whom he knew in China; that defendant's mother is Chong Moi and that he, Loo Seng, went to his birthday celebrations in China and saw him as a baby. He says Lai Foong and himself were school mates in Chong San village. He knew Lai Kim Foh's mother. Lai Foong married in China after he had paid a two-year visit to Malaya. Lai Foong remained one year in China after his marriage, during which time his wife gave birth to defendant. He saw defendant in China often and saw him grow up. He left China for Malaya in 1933 or 1934 and at that time defendant was in China. He says he saw Lai Foong in Malaya and spoke to him but the latter did not enquire about his son in China.

Hoh Ah Meng, an ex-mistress of Lai Teng Fong, gave evidence that he brought the defendant to the house he had rented for her in 1935-6 and introduced him as his son, and added by his first wife in China.

Datoh Wong Shu Fung's evidence is that he knew Lai Teng Fong who brought the defendant into his shop in 1935 and introduced him as his son. The Datoh agreed that a nephew was customarily referred to as a son, but he had never heard the defendant called Lai Teng Fong's nephew.

The defendant agrees that Lai Teng Fong after he came to Malaya returned to China for only one year during which he married Chong Moi He asserts that Chong Moi was his mother who never came to Malaya with Lai Teng Fong at all or was buried in Penang as asserted by the plaintiff, but agrees that when Lai Teng Fong returned to Malaya he went to Penang.

No death certificate of Chong Moi is exhibited though her death should have been registered in Penang. On the other hand it is astonishing that Lai Teng Fong, whom the evidence shows to have been imbued with the idea of having male heirs, should leave a chief wife who had provided him with a male heir in China when the baby was about 3 months old and never return there and never brought them to this country till the boy was 18 or 19 years old. It is also significant that he should have failed to transfer land to the boy though he did so to his younger son Lai Kar Heng, and should have allowed him to earn his living as a vegetable salesman in Ulu Tiram market though he, Lai Teng Fong, owned 100 acres of land. It seems more consistent that he should allow a relation to live with him in this manner than a son. The defendant admits that Lai Kar Heng was given an English education by Lai Teng Fong so as to be able to handle the land.

Against this view of the matter, however, is the fact that Lai Ngee Moey's evidence is that defendant was a natural son of Lai Teng Fong and was treated as such, and the evidence of Loo Seng, who had ample opportunity to have imprinted on his mind the features of the son of Lai Teng Fong born in China and who as an independent witness, asserts that the defendant is that son. There is also the evidence of Datoh Wong Shu Fung that the defendant was introduced to him as the son of Lai Teng Fong and he had no reason to think that the defendant was anything else though he admits he could have been a nephew; the evidence of another independent witness, Hoh Ah Meng, is to the same effect. It is perhaps significant that the plaintiff did not before Datoh Wong Shu Fung question the right of the defendant to discuss what should be done about Letters of Administration, which she might have done if she was then alleging that the defendant was not a natural son of the deceased. But again there are two independent witnesses who say that the deceased spoke of the defendant as his nephew and not as his son and this is consistent with the defendant's own evidence as to his position *vis a vis* the land and his employment.

The onus is on the defendant to prove his parentage. In the case of the relationship of father and son, especially in regard to such a relationship between Chinese who accept an adopted child as being of the same status as one who is natural born, no very strong inference can be drawn from long residence with an alleged father or from the repute of being a son since that repute would also cling to an adopted son.

In Johore, where Lai Teng Fong lived and died, adoption is not recognised as giving the adopted child any share in the estate of the alleged father. In this case the evidence of the independent witnesses on each side cancels out. The evidence of Lai Ngee Moey on this point cannot be accepted as it is clear from her self-contradictions on the subject of the wife in China and the remittances to her that she wished to oust the plaintiff in favour of the defendant.

I am therefore left with the task of assessing the truth or falsehood of this claim on the evidence of the treatment meted out to the defendant by Lai Teng Fong as admitted by the defendant. It does not seem to me that Lai Teng Fong would abandon his chief and eldest son in China for 18 years and then bring him over here and put him in a minor position in the house, let him earn a modest pittance in Ulu Tiram market, and train up a younger son to manage his lands, and obviously in times of danger turn to this younger son to share the responsibilities of the family with him. It seems to me on this evidence far more likely that the plaintiff's story is true and that this defendant was a son of Lai Teng Fong's elder brother brought over to Malaya when he reached manhood to seek his fortune under the protection and guidance of his uncle; it is clear from the evidence of Datoh Wong Shu Fung that the word son could cover a nephew. It is also possible that the defendant was adopted as a son by Lai Teng Fong, but in such case I would have expected evidence that his status in the house was higher than what his evidence discloses.

I therefore cannot say that I am satisfied that the defendant has discharged the onus cast on him to prove his filial relationship to Lai Teng Fong and

must reject his claim that he is a natural-born legitimate son of Lai Teng Fong.

As to the issue raised in this petition as to whether Lai Kar Soon is a natural-born or adopted son of the deceased, I am of opinion that if his claim is seriously raised he should have been represented by a next friend and I make no ruling as to his relationship to Lai Teng Fong deceased, but I call attention to the point that the defendant claims that Lai Kar Soon was born to Wong Pik Ying in Kandang Kerbau maternity hospital, Singapore, in 1934, but produces no birth certificate, and Lai Ngee Moey gives the birth date as 1935.

As to the question of the jewellery jar, that too I consider should be separately considered if necessary by a separate suit.

There will be judgment for the plaintiff in this suit with costs to be paid by the defendant, Letters of Administration will issue to the plaintiff with the usual security.

Judgment for the Plaintiff.

SOO GOON LIEW v. LOH MOOI FATT.

[App. Civ. Juris. (Thomson, J.), December 6, 1949]

[Ipoh — Civil Suit No. 43 of 1949]

Attachment of debt — Civil Procedure Code, ss. 283 and 288 — Assignment of debt to partnership — Notice.

This was an appeal from a decision of the Acting Assistant Registrar, Ipoh.

On the 23rd June, 1949, judgment was entered against one Chin Swee Loon (hereinafter referred to as 'the debtor') in favour of the respondent for $2,231 and costs. The judgment was not satisfied. The debtor was at that time engaged in the construction of certain buildings for the Government at Ipoh, and in connection with that work had entered into a contract with the Public Works Department. On 9th September, 1949, there was owing to the debtor by the Public Works Department a sum of $2,415.37 and the respondent attached that debt. In the meantime, on 5th May, 1949, the debtor had entered into a contract with the Lock Construction Company of Penang the terms of which were embodied in a written agreement. By clause 6 of the said agreement the debtor undertook to hand over to the Lock Construction Company all payments made to him by the Public Works Department in pursuance of the contract.

Held that the debt in question was not one that could be attached by way of execution by the respondent on 9th September, 1949.

Cases referred to:—

(1) *In re General Horticultural Company, Ex parte Whitehouse* L.R. 32 Ch. D. 512.

(2) *Badeley v. Consolidated Bank* L.R. 34 Ch. D. 536.

(3) *Holt v. Heatherfield Trust, Ltd.* L.R. (1942) 2 K.B. 1.

(4) *Badeley v. Consolidated Bank* L.R. 38 Ch. D. 238 at p. 257.

APPEAL FROM REGISTRAR.

Tan Cheng Hock for the Appellant.

Chin Swee Onn for the Respondent.

The facts and arguments sufficiently appear from the Judgment.

Cur. Adv. Vult.

Thomson, J. : — This is an appeal from a decision of the Acting Assistant Registrar, Ipoh.

The facts are not in dispute, but for a proper understanding of the matter it is necessary that they should be recapitulated here.

On 23rd June, 1949, judgment was entered against Chin Swee Loon (to whom I shall henceforth refer as 'the Debtor') in favour of the present Respondent for $2,231 and costs. That judgment was not satisfied. The Debtor was at the time engaged in the construction of certain buildings for the Government at Ipoh, and in connection with that work had entered into a contract with the Public Works Department. On 9th September, 1949, there was owing to the Debtor by the Public Works Department in respect of that contract a sum of $2,415.37 and the Respondent attached that debt under section 292 of the Civil Procedure Code on his judgment debt.

In the meantime, on 5th May, 1949, the Debtor had entered into a contract with the Lock Construction Company of Penang the terms of which were embodied in a written agreement. That agreement recited that the Debtor had obtained a Public Works Department contract for the performance of certain work at Ipoh and that he had agreed to carry out the work "on a joint venture account" with the Lock Construction Company. The parties were to "constitute a syndicate" under the style of Chin Swee Loon and Lock Construction Company, and it was agreed that the working capital should be provided by the Lock Construction Company who would be entitled to charge interest on the amount advanced at the rate of 80 cents per $100 per month. A bank account was to be opened in the names of the Debtor and the present Appellant, who is described as "the authorised representative of the said Lock Construction Company at Ipoh", the use of which was to be confined to the receipt of remittances from the Lock Construction Company and the payment of expenses incurred on account of the contract, and payments made by the Public Works